

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #2	CCRB Case #: 201805188	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/19/2018 2:30 AM	Location of Incident: East 165th Street and Jerome Avenue; 44th Precinct stationhouse	Precinct: 44	18 Mo. SOL 12/19/2019	EO SOL 12/19/2019	
Date/Time CV Reported Wed, 06/20/2018 1:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/28/2018 11:27 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kenny Victoria	21225	960051	044 PCT
2. SGT Christopher Crain	01266	933719	044 PCT
3. POM Andrew Alvarado	23931	962919	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Boyer	21350	959502	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)	
B.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)	
C.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)	
D.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)	
E.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)	
F.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped an individual.	
G.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain frisked § 87(2)(b)	
H.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain frisked § 87(2)(b)	
I.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain frisked § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.SGT Christopher Crain	Abuse: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain frisked § 87(2)(b)	
K.POM Kenny Victoria	Force: At East 165th Street and Jerome Avenue in the Bronx, Police Officer Kenny Victoria used physical force against § 87(2)(b)	
L.POM Andrew Alvarado	Force: At East 165th Street and Jerome Avenue in the Bronx, Police Officer Andrew Alvarado used physical force against § 87(2)(b)	
M.SGT Christopher Crain	Discourtesy: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain spoke discourteously to an individual.	
N.SGT Christopher Crain	Discourtesy: At the 44th Precinct stationhouse, Sergeant Christopher Crain spoke discourteously to § 87(2)(b)	

Case Summary

On June 20, 2018, Captain Joseph Tompkins of the 44th Precinct reported this complaint to IAB via telephone on behalf of § 87(2)(b) (See Board Review #01: IAB Intake Log).

At approximately 2:30 a.m. on June 19, 2018, Sergeant Christopher Crain, Police Officer Kenny Victoria and Police Officer Joseph Boyer of the 44th Precinct stopped a group of people at the intersection of East 165th Street and Jerome Avenue in the Bronx (**Allegations A, B, C and D: Abuse of Authority – Stop, § 87(2)(g)**; **Allegations E and F: Abuse of Authority – Stop, § 87(2)(g)**). Members of this group included § 87(2)(b) and an unidentified female. One of the officers allegedly frisked § 87(2)(b) and § 87(2)(b) (**Allegation G, H, I and J: Abuse of Authority – Frisk, § 87(2)(g)**). The officers conducted a warrant check on § 87(2)(b) and found that he had an active bench warrant for attempted murder. They requested that additional officers respond to the location. Several officers, including Police Officer Andrew Alvarado and Police Officer Peter Navarro of the 44th Precinct, responded. Police Officer Victoria and Police Officer Alvarado forced § 87(2)(b) to the ground and handcuffed him (**Allegations K and L: Force – Physical force, § 87(2)(g)**). An unidentified civilian asked Sergeant Crain why § 87(2)(b) was arrested. Sergeant Crain told the civilian, “Because he has a warrant. That’s why he’s in handcuffs. So now you can take your little ass out of here” (**Allegation M: Discourtesy – Word, § 87(2)(g)**). § 87(2)(b) was transported to the 44th Precinct stationhouse for arrest processing. While there, Sergeant Crain told § 87(2)(b) that his friends were “assholes” (**Allegation N: Discourtesy – Word, § 87(2)(g)**).

Body-worn camera (BWC) footage was obtained from this incident from several officers and attached in IAs #29-37 (See Board Review #02-10: BWC Footage). The footage was summarized in IA #69 (See Board Review #11: BWC Summary). Cell phone footage was also obtained from § 87(2)(b) and attached in IA #112 (See Board Review #12: Cell Phone Footage). It was summarized in IA #115 (See Board Review #13: Cell Phone Summary). Video footage was also obtained from cameras at the 44th Precinct stationhouse (See Board Review #14: Stationhouse Footage). It did not depict any portion of this incident. Subclips from the above videos depicting allegations have been attached in IAs #165, 166, 167 and 172 (See Board Reviews #29, 24, 31, 24: Video Footage).

Findings and Recommendations

Allegation (A) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)

Allegation (B) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)

Allegation (C) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)

Allegation (D) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)

§ 87(2)(b) was interviewed via VTC at the § 87(2)(b) on August 20, 2018. After providing this statement, § 87(2)(b) declined to sign a verification form. § 87(2)(b) and § 87(2)(b) provided telephone statements on September 4, 2018. § 87(2)(b) provided a telephone statement on October 15, 2018 (See Board Review #15-17: Telephone Statements). The investigation was unable to obtain sworn statements from § 87(2)(b) or § 87(2)(b). The investigation was also unable to contact § 87(2)(b) (See Board Review #18: Civilian Contact Attempts). Police Officer Victoria was interviewed at the CCRB on January 8, 2019. Sergeant Crain was interviewed on January 16, 2019. Police Officer Alvarado was interviewed on February 5, 2019. Police Officer Boyer was interviewed on February 13, 2019.

It is undisputed that an unidentified individual who provided his name as “§ 87(2)(b)” called 911 to report an alleged robbery at the intersection of West 161st Street and Ogden Avenue in the Bronx at 9:19 p.m. on June 18, 2018. The victim alleged that his gold chain necklace and a skateboard with yellow wheels were stolen by a group of four to five black and Hispanic males. At approximately 2:30 a.m. on June 19, 2018, Sergeant Crain and the officers under his supervision approached four black males, § 87(2)(b) and § 87(2)(b) at the intersection of East 165th Street and Jerome Avenue. This intersection is approximately a quarter of a mile from where the robbery occurred. § 87(2)(b) was wearing a black T-shirt decorated with several baseball logos of various colors as well as a gold chain necklace. One of the four males was riding a skateboard with yellow wheels. The officers repeatedly asked these civilians for their identification. The civilians declined to provide identification, but later provided their names and dates of birth to the officers. The officers conducted warrant checks on these individuals and found that § 87(2)(b) had an active bench warrant. § 87(2)(b) was arrested pursuant to the warrant. The other civilians were released without being arrested or issued summonses.

None of the interviewed civilians made any mention of the robbery that occurred on June 18, 2018. They did not mention any of them wearing a gold chain necklace or carrying a skateboard. § 87(2)(b) stated that they were stopped while walking on the sidewalk near the bottom of a flight of stairs. The other civilians did not indicate where they were walking when they were stopped. The civilians made no mention of changing directions before they were stopped.

Sergeant Crain stated that he initially observed the civilians walking in the middle of Jerome Avenue, heading southbound. One of the males, later identified as § 87(2)(b) was wearing a gold chain necklace and a “colorful” shirt. One of the males was also riding a skateboard. He did not

recall which male was riding the skateboard and did not mention the color of the skateboard's wheels. Because the group was walking in an active roadway, he considered stopping them for obstructing vehicular traffic, a subsection of the disorderly conduct statute. Either Police Officer Victoria or Police Officer Boyer told Sergeant Crain that the group resembled the description of a group suspected of committing armed robbery a few hours prior. Sergeant Crain then recalled that he had been told of a robbery on that date that had occurred before the start of his tour. He did not recall how he learned of the robbery and did not recall if he reviewed any reports generated for the robbery. He recalled learning that the suspects were described as a group of both males and females, and that one of the males had on a "colorful" shirt. The suspects were alleged to have taken a gold chain necklace and a skateboard. Because the group that he observed generally matched the description and because he noted males in the group possessing a colorful shirt, a necklace and a skateboard, he suspected that they were the robbers. Because so much time had passed since the robbery, however, he did not feel that he possessed sufficient legal grounds to detain the civilians for an investigatory stop. He instead decided to stop them for disorderly conduct and run warrant checks on them. The civilians' identifying information would also be recorded on the officers' BWCs and then passed on to the investigators from the Detective Squad who were investigating the robbery. Sergeant Crain would then decide whether to issue summonses to the civilians for disorderly conduct. Sergeant Crain decided against issuing the summonses after § 87(2)(b) was found to have an open warrant.

Police Officer Victoria and Police Officer Boyer also stated that they suspected the civilians of being involved in the robbery earlier that night. They both stated that they learned about the robbery by reviewing reports. Police Officer Victoria stated that he reviewed a complaint report, which described the suspect as a group of two black males and two Hispanic males, with one of the males wearing a black shirt covered in various logos. Police Officer Boyer stated that he reviewed an ICAD event from the robbery which described the suspects as a group of five males, one of which was described as a black male wearing a "colorful" shirt and another was described as a Hispanic male with a ponytail. Both officers stated that the suspects were alleged to have stolen a skateboard and a gold chain necklace. Police Officer Victoria further stated that the skateboard had yellow wheels. Both officers stated that they observed the civilians along Jerome Avenue. Police Officer Victoria did not mention if the civilians were in the street. Police Officer Boyer stated that § 87(2)(b) was riding a skateboard down the middle of the street, but he did not recall where the other civilians were. Both officers stated that the group changed directions after looking towards their vehicle, and that the male with the skateboard discarded it and walked away. Police Officer Victoria and Police Officer Boyer both suspected that the civilians had been involved in the robbery because they matched the suspects' descriptions. They decided to stop the group, obtain their identifying information, conduct warrant checks on them, and then forward the civilians' information to the Detective Squad. They denied any other factors contributing to their decision to stop the civilians.

ICAD event #§ 87(2)(b) recorded a complainant calling 911 to report a robbery on June 17, 2018. The event describes the suspects as a group of three Hispanic males and two black males, one of whom was named "§ 87(2)(b)" and one of whom had a pocket knife. No mention is made of a suspect wearing a colorful shirt or a shirt with logos on it. The suspects were alleged to have stolen a gold chain necklace and a skateboard with yellow wheels. (See Board Review #19-21:

ICAD Event, Audio and Summary). No complaint reports were found that documented the robbery (See Board Review #22: Complaint Report Request).

Police Officer Victoria and Police Officer Boyer prepared Stop, Question and Frisk Reports to document the incident. The reports state that the civilians were stopped because they resembled a description of the suspects from the June 18, 2018 robbery. They note that one of the civilians discarded a skateboard and walked away while the officers were observing him (See Board Review #23: Stop Reports).

A subclip taken from Police Officer Boyer's BWC has been attached in IA #166 (See Board Review #24: Video Footage). It is 0:06 seconds long. It depicts several of the civilians who were stopped. The male on the right side of the screen, identified by the investigation as § 87(2)(b) is wearing a black shirt with various sports logos on it and a gold chain necklace. Sergeant Crain and Police Officer Boyer both identified § 87(2)(b) was the individual that they had described wearing a colorful shirt and a gold chain necklace based on this video.

A subclip taken from Police Officer Boyer's BWC footage has been attached in IA #172 (See Board Review #25: Video Footage). It is 0:05 seconds long. The footage shows a skateboard with yellow wheels leaned against a wall near where the officers stopped the civilians.

An officer may stop and detain an individual based on the contents of a police dispatcher's radio broadcast providing a general description of the perpetrator, the proximity of the defendant to the site of the crime, and the short passage of time between the commission of the crime and the observation of the defendant. People v. Currie, 131 A.D. 3d 1265 (App. Term, 2nd Dept, 2015) (See Board Review #26: Legal Reference).

§ 87(2)(g)
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§ 87(2)(g)
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§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)

Allegation (F) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, Sergeant Christopher Crain stopped § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) were stopped by Sergeant Crain, Police Officer Victoria and Police Officer Boyer. Two females were with them at the time. The investigation identified one of the females as § 87(2)(b) but was unable to identify the other female.

§ 87(2)(b) stated that when the officers approached her and her friends, they asked everybody in the group, including her, to produce identification. She denied that the officers' request was directed at specific individuals within the group or only towards the male members of the group. § 87(2)(b) and the other civilians initially ignored their requests, but eventually provided their information to the officers verbally.

While § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) and the unidentified female were with them at the time of the stop, they specifically stated that the officers only stopped and spoke to the male members of the group. They denied that the officers spoke to § 87(2)(b) or the other female during the incident. § 87(2)(b) did not mention any females with him at the time of the stop.

Sergeant Crain stated that he reviewed details of the robbery prior to the incident. He recalled that the suspects had been described as a group containing both males and females. When he encountered the civilians, he noted that the group included both males and females. As a result, he decided to stop the entire group, including both the males and the females, in order to investigate their possible involvement in the robbery. When he and his partners approached the group, they asked all of the civilians, including the females, to identify themselves. The females eventually provided their information to Police Officer Victoria and Police Officer Boyer.

Police Officer Victoria and Police Officer Boyer both stated that the information that they reviewed from the robbery described the suspects only as males. Police Officer Victoria stated that the information was obtained from a complaint report. He recalled that there were females with § 87(2)(b) and § 87(2)(b) but he explicitly stated that the officers did not stop the females or request their identification because none of the suspects were described as females. Police Officer Boyer stated that he learned about the robbery from an ICAD report. He and his partners stopped the entire group of civilians that he encountered at 215 East

165th Street. He did not, however, recall there being any civilians present besides § 87(2)(b) or § 87(2)(b). He did not recall seeing or interacting with any female civilians during this incident.

The BWC footage recorded by Sergeant Crain, Police Officer Victoria and Police Officer Boyer depicts their interactions with the civilians after the stop was first effected. The officers repeatedly ask the male members of the group for their names and dates of birth. At no point in any of the videos do the officers ask § 87(2)(b) or the unidentified female for their names or dates of birth. The cell phone footage provided by § 87(2)(b) did not depict any of the officers interacting with her or the unidentified female.

ICAD event #§ 87(2)(b) recorded a complainant calling 911 to report the robbery on June 17, 2018. The event describes the suspects as a group of four or five males. It does not mention any female suspects (See Board Review #19: ICAD Event). No complaint reports were found that documented the robbery (See Board Review #22: Complaint Report Request).

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Allegation (G) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, an officer frisked § 87(2)(b)

Allegation (H) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, an officer frisked § 87(2)(b)

Allegation (I) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, an officer frisked § 87(2)(b)

Allegation (J) Abuse of Authority: At East 165th Street and Jerome Avenue in the Bronx, an officer frisked § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) stated that as soon as Sergeant Crain, Police Officer Victoria and Police Officer Boyer approached the civilians, one of the three officers frisked all four of the males. § 87(2)(b) did not recall which officer frisked them. § 87(2)(b) did not specify which officer or officers conducted these frisks. The frisks covered the males' entire bodies. Nothing was found on any of the males.

§ 87(2)(b) specifically denied that any of the officers frisked him during the incident. § 87(2)(b) made no mention of the officers frisking any of the civilians during the incident.

All three officers denied that they or their partners frisked any of the civilians. Sergeant Crain and Police Officer Boyer denied that they suspected that any of the males were armed. Police Officer Victoria did not recall if he suspected that the males were armed.

Police Officer Boyer and Police Officer Victoria prepared Stop, Question and Frisk Reports to document this incident. The reports state that the individuals who were stopped were not frisked (See Board Review #23: Stop Reports).

The BWC and cell phone footage obtained for this incident does not depict any of the officers frisking any of the civilians during the incident. The videos do not depict the beginning of the interaction, when the frisks were alleged to have taken place.

§ 87(2)(g)

Allegation (K) Force: At East 165th Street and Jerome Avenue in the Bronx, Police Officer Kenny Victoria used physical force against § 87(2)(b)

Allegation (L) Force: At 215 East 165th Street in the Bronx, Police Officer Andrew Alvarado used physical force against § 87(2)(b)

It is undisputed that after § 87(2)(b) provided his identifying information to officers, Police Officer Victoria conducted a warrant check on him and found that § 87(2)(b) had an active bench warrant. Police Officer Victoria moved to place § 87(2)(b) in handcuffs. By this time, several backup officers, including Police Officer Alvarado, had responded to the location. Police Officer Alvarado assisted Police Officer Victoria in physically restraining § 87(2)(b)

In his initial complaint, § 87(2)(b) alleged that officers used physical force against him at the 44th Precinct stationhouse after he was arrested. During his sworn statement, he alleged that after he was stopped, several officers grabbed him by the arms. These officers then pushed him face-down onto the ground. Once § 87(2)(b) was on the ground, these officers pulled his arms behind his back and placed him in handcuffs. One of the officers held § 87(2)(b) down by placing his knee on the right side of § 87(2)(b) head. § 87(2)(b) denied that he made any movements or offered any resistance to the officers when they arrested him. He suffered a scrape to his right knee as a result of his fall to the ground. § 87(2)(b) was later taken to the 44th Precinct stationhouse. § 87(2)(b) did not allege that officers used any force against him while at the stationhouse or that he received any other injuries besides the scrape on his knee.

From the stationhouse, § 87(2)(b) was transported to § 87(2)(b) to receive treatment for the scrape on his knee. § 87(2)(b) declined to sign a medical release form for the CCRB, so his medical records could not be obtained for the investigation.

§ 87(2)(b) and § 87(2)(b) stated that a group of officers threw § 87(2)(b) face-first onto the ground while arresting him. § 87(2)(b) stated that officers then jumped on top

of § 87(2)(b) with their feet, “like he was a roach.” She did not state whether § 87(2)(b) offered any physical resistance. § 87(2)(b) and § 87(2)(b) denied that officers used any further force against § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) stated whether § 87(2)(b) offered any physical resistance or was injured as a result of this force. § 87(2)(b) stated that § 87(2)(b) complained that his nose was broken after he was lifted off of the ground. She also saw that § 87(2)(b) had scrapes all over his body.

Police Officer Victoria stated that after he found that § 87(2)(b) had an active bench warrant, he and his partners decided to arrest § 87(2)(b). Because the civilians outnumbered the officers at the time, the officers waited for several backup officers, including Police Officer Alvarado, to respond and assist them. Once the backup officers arrived, Police Officer Victoria and Police Officer Alvarado grabbed § 87(2)(b) by his arms. When they tried to pull § 87(2)(b) arms behind his back, he reacted by tensing his arms and holding them at his side. He also tried to move away from the two officers. Police Officer Victoria and Police Officer Alvarado responded to this resistance by pushing § 87(2)(b) down to the ground. § 87(2)(b) landed in a prone position. Once he was down, § 87(2)(b) moved both of his arms underneath his torso. Police Officer Victoria and Police Officer Alvarado reached underneath § 87(2)(b) torso, pulled his arms out and then brought them behind his back for handcuffing. Police Officer Victoria denied that he, Police Officer Alvarado or any other officer used additional force against § 87(2)(b). He denied that he or any other officer placed a knee on § 87(2)(b) head. Police Officer Victoria did not observe any injuries to § 87(2)(b). § 87(2)(b) complained to him later that he had suffered an unspecified injury to his hands prior to the incident, but did not complain about any injuries suffered during the incident. Police Officer Victoria was not aware of § 87(2)(b) receiving medical attention after his arrest.

Police Officer Alvarado stated that he responded to the location after receiving a request for backup from Police Officer Victoria and his partners. Shortly after he arrived, Sergeant Crain directed him to arrest § 87(2)(b). Police Officer Alvarado walked up to § 87(2)(b) and took hold of his arms. When Police Officer Alvarado tried to move § 87(2)(b) arms behind his back, § 87(2)(b) responded by holding his arms in front of his torso. He did not pull his arms forward forcefully enough to prevent Police Officer Alvarado from getting the arms behind his back. Police Officer Alvarado then handcuffed § 87(2)(b). He denied that he used any further force against § 87(2)(b) including forcing him to the ground or placing a knee on § 87(2)(b) head. He did not recall if any other officers, including Police Officer Victoria, assisted him in restraining § 87(2)(b). He was not aware of § 87(2)(b) sustaining any injuries, including scrapes on his knees or a broken nose.

Sergeant Crain stated that he directed several officers to arrest § 87(2)(b) after he learned of the open bench warrant. He did not recall which officers he gave the orders to or which officers actually made contact with § 87(2)(b). He was not certain if he was one of the officers. The officers grabbed § 87(2)(b) by his arms. § 87(2)(b) responded by tensing his arms. The officers around § 87(2)(b) then brought him to the ground. Sergeant Crain did not recall what specific actions the officers took to bring § 87(2)(b) down. § 87(2)(b) offered no further resistance after he was brought to the ground. No further force was used against him beyond officers grabbing his arms and bringing him to the ground. Sergeant Crain was not aware of § 87(2)(b) suffering or complaining of any injuries during the incident.

Police Officer Boyer stated that he was busy speaking to § 87(2)(b) and § 87(2)(b) at the time of § 87(2)(b) arrest, and as such did not pay attention to the arrest. He did not recall if officers engaged in any physical struggle or altercation with § 87(2)(b). He did not recall if any officers forced § 87(2)(b) to the ground or used any other physical force against him. Police Officer Boyer was not aware of § 87(2)(b) sustaining or complaining of any injuries during the incident.

Sergeant Crain prepared a TRI report to document this incident. The report states that § 87(2)(b) complained of pain and alleged that officers used force against him, but that no force was used during his arrest (See Board Review #28: TRI Report).

§ 87(2)(b) arrest was recorded on Police Officer Victoria's BWC. A subclip depicting the arrest has been attached in IA #165 (See Board Review #29: Video Footage). It is 0:58 seconds long. The footage shows Police Officer Victoria and Police Officer Alvarado approach § 87(2)(b), reach for his arms, and tell him that he is under arrest. § 87(2)(b). The camera's view is obstructed as Police Officer Victoria stands next to § 87(2)(b). At 0:20 seconds into the recording, § 87(2)(b) is seen lying face-down on the ground. The video does not show how § 87(2)(b) came to be in this position. Several officers, including Police Officer Victoria, lean down over § 87(2)(b) and apply handcuffs to him. No officer is seen placing a knee on § 87(2)(b) head or torso. At 0:38 seconds into the recording, the officers all stand up over § 87(2)(b) who remains on the ground. § 87(2)(b) remains on the ground. None of the officers are seen striking § 87(2)(b).

NYPD Patrol Guide procedure 221-01 states that an officer may use physical force when it is reasonable to place a person in custody. The application or use of force must be reasonable under the circumstances (See Board Review #30: Legal Reference).

§ 87(2)(g)
[REDACTED]

Allegation (M) Discourtesy: At East 165th Street and Jerome Avenue in the Bronx,
Sergeant Christopher Crain spoke discourteously to § 87(2)(b)

Allegation (N) Discourtesy: At the 44th Precinct stationhouse, Sergeant Christopher Crain spoke discourteously to § 87(2)(b)

None of the civilians alleged that Sergeant Crain or any of the other officers used profanity towards them during the incident.

BWC footage from this incident showed Sergeant Crain using profanity both at 215 East 165th Street and later at the 44th Precinct stationhouse. A subclip taken from Police Officer Boyer's BWC has been attached in IA #166 (See Board Review #24: Video Footage). It is 0:06 seconds long. It takes place at 215 East 165th Street, shortly after § 87(2)(b) arrest. It depicts Sergeant Crain speaking to an unidentified female and saying, "So now you can take your little ass out of here."

A subclip taken from Police Officer Navarro's BWC has been attached in IA #167 (See Board Review #31: Video Footage). It is 0:06 seconds long. It takes place at the front desk when § 87(2)(b) first arrived at the 44th Precinct stationhouse. It depicts Sergeant Crain arguing with § 87(2)(b). Sergeant Crain states, "And if your friends weren't such little assholes..."

Sergeant Crain denied that he used any profanity during the incident. When shown the BWC footage depicting his use of profanity, he confirmed that he was the officer seen on the video. When asked why he used this language, Sergeant Crain stated that there was no reason.

Officers may use limited profanity towards civilians when it is used in an effort to gain control of a dynamic situation. Officers may not use profanity when it does not serve a legitimate law enforcement purpose and are intended to belittle or insult. PD v. Pichardo, DAO-DCT case #2015-15012 (See Board Review #32: Legal Reference).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) have been a party (See Board Review #33: Civilian CCRB Histories).
- Sergeant Crain has been a member of the service for fifteen years and has been a subject in ten CCRB complaints and twenty-eight allegations, of which two were substantiated:
 - 201605621 involved a substantiated allegation of physical force. The Board recommended that he receive charges. Sergeant Crain was found not guilty at trial.
 - 201706153 involved a substantiated allegation of discourtesy (word). The Board recommended that he receive Command Discipline B. The NYPD administered Command Discipline A.
 - § 87(2)(g)
- Police Officer Victoria has been a member of the service for three years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated.

§ 87(2)(g)

- Police Officer Alvarado has been a member of the service for two years and has been a subject in two previous CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 27, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (See Board Review #34: Notice of Claim).
- § 87(2)(b)
- § 87(2)(b)
- According to OCA, neither § 87(2)(b) nor § 87(2)(b) has a history of convictions in New York City (See Board Review #35-36: Civilian Conviction Histories).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date